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EXAMINER

CHARLES, DEBRA F

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3628

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/543,868

Applicant(s)

HORNSTEIN, DAVID

Examiner

Debra F. Charles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.



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Claims 1-34 have been examined.

### **DETAILED ACTION**

#### ***Response to Amendment***

1. Claim 1 has been amended. Claims 16-34 have been added.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 16-21 and 24-26 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter. No "technological art" is positively cited in the claims.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1,4,5,6,7,8,13 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobi et al. (6317722B1).

Re claim 1: Jacobi et al. 6317722B1 disclose a method for selecting products that occurs over a networked computer system comprises:

sending a user a web page that contains questions that request preferences for scales that correspond to aesthetic features of products(Fig. 1 and 5, item 180,col. 1, line 25-32, lines 55-67,i.e. "the user is commonly faced with the onerous task of having to rate items in the database to build up a personal ratings profile", col. 2, lines 1-21, and col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!");

and receiving from a user, a set of responses from the questions that correspond to aesthetic features of products, to produce a profile of the user's preferences for scales that correspond to aesthetic features of products (col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 4: Jacobi et al. 6317722B1 disclose the method of claim 1 wherein the user is presented with a graphical user interface that contains questions that illicit the information from the user(col. 5, lines 19-25, lines 45-50, and col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 5: Jacobi et al. 6317722B1 disclose the method of claim 1 wherein the user is present with a graphical user interface that is a web page(col. 5, lines 19-25).

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Re claim 6: Jacobi et al. 6317722B1 disclose the method of claim 5 wherein web page includes a control for the user to enter a value corresponding to how the user rates the importance of the scale(col. 5, lines 19-25, lines 45-50, and col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 7: Jacobi et al. 6317722B1 disclose the method of claim 5 wherein the web page includes a control that when selected by the user displays a picture of an item that embodies the scale(col. 2, lines 45-50, col. 5, lines 19-25, lines 45-50, and col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 8: Jacobi et al. 6317722B1 disclose the method of claim 5 wherein the web page includes a description of each of the scales(col. 5, lines 19-25, lines 45-50, and col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 13: Jacobi et al. 6317722B1 disclose a computer program product for selecting products, said computer program product residing on a computer readable medium comprises instructions for causing a computer to:

receive from a user responses for preferences for scales that correspond to aesthetic features of products, wherein the computer program product produces a graphical user interface that contains questions that illicit the information from the user(Fig. 1 and 5, item 180,col. 1, line 25-32, lines 55-67,i.e. "the user is commonly faced with the onerous task of having to rate items in the database to build up a personal ratings profile", col. 2, lines 1-21, and col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 15: Jacobi et al. 6317722B1 disclose the system for selecting products, said system comprising:

a computer(Fig. 1, item 34);

a computer program product residing on a computer readable medium comprises instructions for causing a computer to: receive from a user responses for preferences for scales that correspond to aesthetic features of products, wherein the computer program product produces a graphical user interface that contains questions that illicit the information from the user(Fig. 1 and 5, item 180,col. 1, line 25-32, lines 55-67, i.e. "the user is commonly faced with the onerous task of having to rate items in the database to build up a personal ratings profile", col. 2, lines 1-21, and col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 8, lines 25-50, i.e. "The book titles

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are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2,3,10,11,12,14 and 27-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. (6317722B1).

Re claim 2: Jacobi et al. 6317722B1 disclose the method of claim 1 further comprising:

compiling an aesthetic profile tag for the user based on the received responses for the preferences for the scales(Fig. 1 and 5, item 180,col. 1, line 25-32, lines 55-67, i.e. "the user is commonly faced with the onerous task of having to rate items in the database to build up a personal ratings profile", col. 2, lines 1-21, and col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 3: Jacobi et al. 6317722B1 disclose the method of claim 1 further comprising:

retrieving a product aesthetic tag associated with a particular product type selected by the user, the product aesthetic tag representing aesthetic features of the product; forming a result tag that contains a value corresponding to how well aesthetic features of the product match to aesthetic preferences of the customer(Fig 3, all items on the figure, Fig 5, item 182, Fig 6, col. 3, lines 5-20).

Re claim 10: Jacobi et al. 6317722B1 disclose a method of producing an aesthetic profile tag for a user comprises:

entering preferences in a plurality of attribute scales, said attribute scales providing textual indications of aesthetic features preferred by a user(Jacobi et al. 6317722B1 Fig.

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1 and 5, item 180, col. 1, line 25-32, lines 55-67, i.e. "the user is commonly faced with the onerous task of having to rate items in the database to build up a personal ratings profile", col. 2, lines 1-21, and col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 3, lines 1-7, i.e. "item-to-item mappings could also incorporate other types of by analyzing item descriptions or content." And col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 11: official notice is taken that the aesthetic features include at least one of form, material, decoration, overall appearance, and novelty are old and well known and would be obvious to one skilled in the art at the time of the invention.

Re claim 12: Jacobi et al. 6317722B1 disclose the method of claim 10 wherein each scale is further divided into three levels(Col. 5, Lines 42-50, Col. 8, Lines 26-50).

Re claim 14: Jacobi et al. 6317722B1 disclose the computer program product of claim 13 further comprising instructions to:

compile an aesthetic profile tag for the user based on the received responses for the scales(col. 5, lines 45-50, i.e. "BookMatcher allows users to interactively rate individual books on a scale of 1-5 to create personal item ratings profiles." And col. 8, lines 25-50, i.e. "The book titles are rated according to the following scale: 1=Bad! 2=Not for me 3=OK 4=Liked it 5=Loved it!").

Re claim 27: Jacobi et al. 6317722B1 disclose a method for selecting products that occurs over a networked computer system comprising:

retrieving a first user's profile, wherein the first user's profile comprises one or more tags which correspond to the first user's preferences for one or more aesthetic characteristics of products(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, and claim 1.);

retrieving a second user's profile, wherein the second user's profile comprises one or more tags which correspond to the second user's preferences for one or more aesthetic characteristics of products(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, and claim 1.); and

combining the first and second users' profile to create a composite profile(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, and claim 1.).

Re claim 28: Jacobi et al. 6317722B1 disclose the method of claim 27, wherein the step of combining the first and second users' profile comprises:

combining a tag contained in the first user profile associated with an aesthetic characteristic with a tag contained in the second user profile associated with the

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same aesthetic characteristic(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, and claim 1.); and

storing the combined tag in a composite profile(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, and claim 1.).

Re claim 29: Jacobi et al. 6317722B1 disclose the method of claim 28, wherein the step of combining a tag contained in the first and second users' profile comprises:

averaging a value associated with the tag contained in the first user profile with a value associated with the tag contained in the second user profile(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55 and col. 6, lines 40-51, i.e. "the similar items lists read from the table are appropriately weighted (prior to being combined) based on indicia of the user's affinity for or current interest in the corresponding items of known interest." And claim 1.).

Re claim 30: Jacobi et al. 6317722B1 disclose the method of claim 28, wherein the step of combining a tag contained in the first and second users' profile comprises (Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, and claim 1.):

assigning a weight factor to a value associated with a tag contained in the first user profile associated with an aesthetic characteristic(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, and claim 1.);

assigning a weight factor to a value associated with a tag contained in the second user profile associated with the same aesthetic characteristic(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, and claim 1.); and

averaging the weighted values of the tags in the first and second users' associated with the same aesthetic characteristic(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, col. 6, lines 40-51, i.e. "the similar items lists read from the table are appropriately weighted (prior to being combined) based on indicia of the user's affinity for or current interest in the corresponding items of known interest.").

Re claims 31 and 32: Jacobi et al. 6317722B1 disclose the method of claim 28, further comprising: receiving input from the first user indicating how the first and second users' profile should be combined and

presenting the first or second user with one or more questions to determine how the first and second users' profile should be combined (Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, col. 6, lines



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40-51, i.e. "the similar items lists read from the table are appropriately weighted (prior to being combined) based on indicia of the user's affinity for or current interest in the corresponding items of known interest." And claim 1.).

Re claim 33: Jacobi et al. 6317722B1 disclose the method of claim 28, further comprising:

retrieving a second profile associated with the first user(Jacobi et al. 6317722B1, Abstract, col. 4, lines 15-35, i.e. "allowing the user to create multiple shopping carts under a single account (such as shopping carts for different family members) . . . the user can be prompted to select a particular shopping cart");

retrieving a second profile associated with the second user(Jacobi et al. 6317722B1, Abstract, col. 4, lines 15-35, i.e. "allowing the user to create multiple shopping carts under a single account (such as shopping carts for different family members) . . . the user can be prompted to select a particular shopping cart"); and

wherein the step of combining the first and second users' profile to create a composite profile comprises:

combining the first and second profiles associated with the first user and the first and second profiles associated with a second user to create a composite profile(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, col. 6, lines 40-51, i.e. "the similar items lists read from the table are appropriately weighted (prior to being combined) based on indicia of the user's affinity for or current interest in the corresponding items of known interest.").

Re claim 34: The method of claim 33, wherein the second profile of the first and second users each comprise data which indicates non-aesthetic preferences of the user(Jacobi et al. 6317722B1 Fig 3, items 102, 102A, 104, 104A, 108, and 108A, cols. 13, 14 and 15, esp. lines 50-55, col. 6, lines 40-51, i.e. "the similar items lists read from the table are appropriately weighted (prior to being combined) based on indicia of the user's affinity for or current interest in the corresponding items of known interest.").

Re claims 2,3,10,14, and 27-34: official notice is taken that an aesthetic profile tag is a database data item attribute tag that is an old and well-known type of database characteristic for identifying and describing data in the computer database art. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention implement Jacobi et al. (6317722B1)'s method and system with tags, whether they are called tags, attributes or characteristics, in order to associate correct customer preferences with customer selected item characteristics.

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8. Claims 16- 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. (6064980A).

Re claim 16: Jacobi et al. 6064980A disclose a method for determining user aesthetic preferences, the method comprising:

presenting a set of images to the user(col. 2, lines 15-33, col. 4, lines 5-12);

receiving input from the user indicating the user's like or dislike of one or more images in the set of images(col. 7, lines 55-67); and

establishing an aesthetic profile for the user based on the user's input(Abstract).

However, Jacobi et al. 6064980A does not explicitly disclose receiving responses from the user. Jacobi et al. 6064980A in col. 7, lines 55-67 does indicate "each title information page presented to the user includes a title rating box for allowing the to rate the title." Thus, it would have been obvious to one of ordinary skill in the art to employ these web page controls to get the benefit of receiving responses from the user.

Re claim 17: Jacobi et al. 6064980A does not explicitly disclose wherein each image in the set of images emphasize a certain aesthetic characteristic. However, in col. 2, lines 34-45, Jacobi et al. 6064980A does indicate books that fall within various genres. Genres are an aesthetic characteristic. Thus, it would have been obvious to one of ordinary skill in the art to employ a certain aesthetic characteristic to get the benefit of more specialized, focused feedback.

Re claim 18: official notice is taken that the aesthetic features include at least one of form, material, decoration, overall appearance, and novelty are old and well known and would be obvious to one skilled in the art at the time of the invention.

Re claim 19: Jacobi et al. 6064980A disclose the method of claim 16, wherein presenting a set of images to the user further comprises:

presenting the user with a scale in which to grade the strength of the user's like or dislike of one or more images presented in the set of images(Jacobi et al. 6064980A Fig. 4, col. 7, lines 55-67).

Re claim 20: Jacobi et al. 6064980A disclose the method of claim 16, wherein the input from the user indicating the user's like or dislike of one or more images in the set of images comprises the user's selection of and image from a set of images(Jacobi et al. 6064980A Fig. 4, col. 7, lines 55-67).

Re claim 21: Jacobi et al. 6064980A the method of claim 16, further comprising:

presenting a plurality of sets of images to a user(Jacobi et al. 6064980A col. 2, lines 15-33, col. 4, lines 5-12), wherein each set of images emphasizes a particular aesthetic characteristic; and

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for set of images, presenting the user with a scale in which to grade the strength of the user's like or dislike of one or more images presented in the set of images(Jacobi et al. 6064980A Fig. 4, col. 7, lines 55-67); and

receiving input from the user indicating the user's like or dislike of one or more images in each set of images (Jacobi et al. 6064980A, col. 7, lines 55-67).

Re claim 22: Jacobi et al. 6064980A the method of claim 21, wherein establishing an aesthetic profile for the user based on the user's input comprises:

examining the input received from the user(col. 6, lines 50-65);

determining whether the user has given consistent responses to an aesthetic characteristic emphasized in one or more sets of images(Jacobi et al. 6064980A, col. 6, lines 50-65, col. 7, lines 10-30, col. 9, lines 55-65, claim 1-3, i.e. "when a quantity of rated items recorded within the repository for a non-service-category reaches a level that represents a desired degree of reliability for recommending items within that category, adding the category and associated rated items to the service." ); and

if a consistent response has been given, storing a profile tag indicating the user's preference for the aesthetic characteristic emphasized in one or more sets of images(Jacobi et al. 6064980A, col. 6, lines 50-65, col. 7, lines 10-30, col. 9, lines 55-65, claim 1-3, i.e. "These titles are selected by the BookMatcher application from a startup list 64 (FIG. 1), which is a list of popular BookMatcher titles. For each book that is presented to the user, the user can select a rating of "not for me," "okay," "liked it," "loved it!," "bad," or "don't know." The purpose of this process is to allow the BookMatcher service to establish a rating profile for the new user, so that the service can thereafter use collaborative filtering techniques to generate predictions. As indicated above, the service requires the user to rate a certain minimum number of titles before allowing the user to view the service's recommendations. Users can return to the ratings pages at any time to add to their respective rating profiles.")

Re claim 24: Jacobi et al. 6064980A disclose a method for determining product profile, the method comprising the steps of viewing a product;

grading an aesthetic characteristic of the product on a scale(Jacobi et al. 6064980A Fig. 4, col. 7, lines 55-67); and

storing the grade in a field corresponding to the graded aesthetic characteristic within the product profile(Jacobi et al. 6064980A Fig 1, items 40 and 54, Fig 7, items 54 and 60, col. 2, lines 50-62).

For claims 22 and 24: official notice is taken that an aesthetic profile tag is a database data item attribute tag that is an old and well-known type of database characteristic for identifying and describing data in the computer database art. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention implement Jacobi et al. (6064980A)'s method and system with tags, whether they are

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called tags, attributes or characteristics, in order to associate correct customer preferences with customer selected item characteristics.

Re claim 23: Jacobi et al. 6064980A disclose the method of claim 22, wherein determining whether the user has given consistent responses to an aesthetic characteristic comprises:

sending the user a test set of images that emphasizes a particular aesthetic characteristic(Jacobi et al. 6064980A col. 2, lines 15-33, col. 4, lines 5-12);

receiving input from the user indicating the user's like or dislike of one or more images in the set of images(Jacobi et al. 6064980A , col. 7, lines 55-67); and

comparing the input received from the user that corresponds to the test set of images to input received from the user that corresponds to one or more prior sets of images to determine if a consistent response has been given(Jacobi et al. 6064980A col. 6, lines 50-65, col. 7, lines 10-30, col. 9, lines 55-65, claim 1-3, i.e. "when a quantity of rated items recorded within the repository for a non-service-category reaches a level that represents a desired degree of reliability for recommending items within that category, adding the category and associated rated items to the service." ).

Re claims 25 and 26: Jacobi et al. 6064980A disclose the method of claim 24, wherein the step of viewing a product comprises: viewing one or more electronic images of the product(Jacobi et al. 6064980A col. 2, lines 15-33, col. 4, lines 5-12).

grading a plurality of aesthetic characteristics of the product on a plurality of scales(Jacobi et al. 6064980A , col. 7, lines 55-67); and

storing the grades in a plurality of fields in a product profile, wherein each field in the product profile corresponds to an aesthetic characteristic(Jacobi et al. 6064980A Fig 1, items 40 and 54, Fig 7, items 54 and 60, col. 2, lines 50-62).

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobi et al. 6317722B1 and further in view of Jacobi et al. 6064980A.

Re claim 9: Jacobi et al. 6317722B1 does not explicitly disclose the web page includes a first control for the user to enter a value corresponding to how the user rates the importance of the scale; and a second control that when selected by the user displays a picture of an item that embodies the scale, and a description of each of the scales. Jacobi et al. 6064980A indicates in Fig. 4 various controls on the web page screen that

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constitute the scale for rating. Thus, it would have been within the level of ordinary skill in the art to put a control on the web page corresponding to the rating scale to ensure ease of rating within the framework of the existing rating scale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra F. Charles whose telephone number is (703) 305-4718. The examiner can normally be reached on 9-5 Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be reached on (703) 308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Debra F. Charles

Examiner

Art Unit 3628

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January 24, 2003

  
Hyung Sough  
Primary Examiner